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MAR - 4 2003

In re Application of:	:	
Hiroki Adachi	:	DECISION ON PETITION TO
Application No. 09/437,649	:	WITHDRAW HOLDING
Filed: November 10, 1999	:	OF ABANDONMENT
Attorney Docket No.: SEL144	:	

This is a decision on the communication filed May 09, 2002, the petition to withdraw the holding of abandonment for the above-identified application, filed on July 02, 2002 and supplemented on February 11, 2003. A petition fee is not required.

The petition is **granted**.

The application was held abandoned for failure to timely respond to the Office action mailed on October 01, 2001. A Notice of Abandonment was mailed on June 18, 2002

Petitioner asserts that a response was timely mailed to the U.S. Patent and Trademark Office (PTO) November 01, 2001. To support this assertion, petitioner has submitted a copy of the response mailed November 01, 2001 and a copy of a return postcard that properly identifies and acknowledges receipt of each item of the response by the PTO on January 09, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." The copy of the response bears a Certificate of Mailing showing a date of deposit of November 01, 2001. Accordingly, it is concluded that the response was timely received in the PTO, but lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The copy of the response submitted with the communication on May 09, 2002, is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. From there, the application will be forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (703) 308-2260.

A handwritten signature in black ink, appearing to read "Lissi Mojica Marquis", is written over a horizontal line.

Lissi Mojica Marquis, Special Programs Examiner
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